



June 28, 2018

Via Electronic Filing

Hon. Sarah Netburn
United States Magistrate Judge
United States District Court
for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *Centauro Liquid Opportunities Master Fund, L.P. v. Bazzoni, et al.*, No. 15-cv-9003 (LTS) (SN)

Dear Judge Netburn:

I represent Plaintiff Centauro Liquid Opportunities Master Fund, L.P. (“Centauro”), and I write on behalf of the parties jointly to provide a status update on the issues raised in the Court’s Order dated May 21, 2018 (ECF No. 201) and the discovery conference held on the same day.

The parties agreed not to reschedule the deposition of Yvonne Morabito. Ms. Morabito’s deposition was conducted yesterday on June 27, 2018, as previously scheduled (*see* ECF No. 189).

The parties were unable to reach a consensus on consenting to Judge Netburn’s handling of the summary judgment motion(s).

The parties were unable to reach a consensus on a schedule for summary judgment. The parties’ respective positions on summary judgment scheduling are as follows:

Plaintiff Centauro

Centauro believes that summary judgment deadline should be July 25, 2018. The prior deadline was July 18, 2018 (*see* ECF No. 187), and that date was **jointly** requested by the parties just over a month ago (*see* ECF No. 186). Any scheduling conflicts or other issues with that date could have been raised at that time – but none were. The one-week extension beyond the original deadline is necessary only to account for the week the Court provided for the parties to confer about the deadline. There is no purpose for the lengthy delay Defendants propose: discovery effectively closed on June 18, 2018; there are no expert reports to be traded; and the number of documents produced is relatively small (no party has produced more than 10,000 pages, and most have produced far less than that).

Nor does the lone remaining deposition – Eduardo Cisneros on July 17, 2018 – provide any reason to extend the summary judgment deadline past July 25, 2018. As the party that has been requesting that deposition since March 7, 2018, Centauro would be the party with the greatest interest in delaying summary judgment because of it. Yet Centauro was willing to



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accept the July 17th date, even with summary judgment briefs then due one day later (*see* ECF No. 195).

If the Court does postpone summary judgment beyond July 25, 2018, Centauro believes that the additional time should be used for additional discovery. In particular, it is now apparent that there are significant shortcomings in Defendants' document productions. For example, just last week Centauro received documents from a non-party deponent, Ruben Alejandro "Alex" Goldstein, which contain dozens of emails from early-to-mid 2016 when he worked at Elemento.¹ Elemento itself neglected to produce these emails, despite their being squarely responsive to Centauro's document requests to Elemento, even when accounting for Elemento's objections to timing and overbreadth (*see* ECF No. 197). Given this issue, and other deficiencies, any extension to the summary judgment deadline beyond July 25, 2018, should be accompanied with a reasonable extension to the discovery deadline as well. Absent such additional discovery, the deadline for opening briefs should be no later than July 25, 2018.

Defendants Alessandro Bazzoni and CT Energia, Ltd. (BVI)

Defendants Alessandro Bazzoni and CT Energia Ltd. (BVI) respectfully request that the deadline for the filing of summary judgment motions be set for August 31, 2018. Counsel for these defendants have a trial on July 19, 2018, multiple motions due in July and August for other cases and a previously scheduled vacation the week of August 6, 2018.

Defendant Elemento, Ltd.

Defendant Elemento, Ltd. ("Elemento") has chosen not to withdraw its motion pending motion to dismiss.

Defendant Elemento joins Defendants Alessandro Bazzoni and CT Energia Ltd. (BVI) in requesting that the deadline for the filing of summary judgment motions be set for August 31, 2018. One of the two counsel primarily responsible for the matter is expecting his second child in July.

Finally, if Centauro has concerns that certain documents exist and should have been captured in Elemento's collection, review, and production process (subject to Elemento's objections), but were not, Centauro should discuss its concerns with Elemento so that the parties can attempt to resolve any issues before writing to the Court. Centauro's purported concerns, however, are unrelated to the discovery deadline. To reopen the discovery period now would

¹ Mr. Goldstein produced these documents during his deposition on June 18, 2018. However, Elemento requested to review the documents before Centauro to determine if they contained any privileged communications. Centauro agreed to that request. Elemento forwarded the documents to Centauro on the evening of June 20, 2018.



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allow Centauro to propound new discovery, which is unwarranted given, among other things, the more than six-month discovery period that Centauro previously was afforded.

Respectfully submitted,

/s/ Byron Pacheco

Counsel for Plaintiff

Copies to:

Counsel of record (via ECF)